IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 302 OF 2004

The Indian Industrial Company ... Petitioner

Versus

Municipal Corproation of Gr. Mumbai and anr. ... Respondents

Mr. T. Dahibavkar for Petitioner.

Ms. T. Puranik for Respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : MARCH 20, 2006

P.C.

. The Petitioner had challenged the constitutional validity of Section 217(5) of the M.M.C. Act. At the stage of admission, the Petitioner was allowed to prosecute the appeal before the Small Causes Court by depositing 25% of the amount. The Petitioners have deposited the money and the appeal is being considered by the Small Causes court.

. Once that be the case, in our opinion, the Petitioner has remedy by way of appeal and it is not necessary for us to go into the issue of

constitutional validity of the section which has been impugned. That question is left open for consideration in a petition which is properly constituted and wherein the said challenge needs to be decided.

. With the above observations, petition stands disposed of. Rule discharged. No order as to costs.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)